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2 **UNITED STATES DISTRICT COURT**
3 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
4 **FRESNO DIVISION**

5 Marie Elizabeth Cowan,

6 Plaintiff,

7 v.

8 Kilolo Kijakazi, Acting
9 Commissioner of Social Security,

10 Defendant.

Case No. 1:21-cv-00633-GSA

**STIPULATION FOR THE AWARD
AND PAYMENT OF ATTORNEY
FEES AND EXPENSES PURSUANT
TO THE EQUAL ACCESS TO
JUSTICE ACT; ORDER**

11 IT IS HEREBY STIPULATED by and between the parties through their
12 undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded
13 attorney fees and expenses in the amount of NINE HUNDRED SIXTY-ONE
14 DOLLARS and 83/100 (\$961.83) under the Equal Access to Justice Act (EAJA), 28
15 U.S.C. § 2412(d), and cost in the amount of zero dollars (\$0.00) under 28 U.S.C. § 1920.
16 This amount represents compensation for all legal services rendered on behalf of
17 Plaintiff by counsel in connection with this civil action, in accordance with 28 U.S.C. §
18 2412(d).
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20 After the Court issues an order for EAJA fees to Plaintiff, the government will
21 consider the matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to
22 *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability
23 to honor the assignment will depend on whether the fees are subject to any offset
24 allowed under the United States Department of the Treasury's Offset Program. After
25 the order for EAJA fees is entered, the government will determine whether they are
26 subject to any offset.

27 Fees shall be made payable to Plaintiff, but if the Department of the Treasury
28 determines that Plaintiff does not owe a federal debt, then the government shall cause

1 the payment of fees, expenses and costs to be made directly to Counsel, pursuant to
2 the assignment executed by Plaintiff. Any payments made shall be delivered to
3 Plaintiff's counsel, Jonathan O. Peña.

4 This stipulation constitutes a compromise settlement of Plaintiff's request for
5 EAJA attorney fees, and does not constitute an admission of liability on the part of
6 Defendant under the EAJA or otherwise. Payment of the agreed amount shall
7 constitute a complete release from, and bar to, any and all claims that Plaintiff and/or
8 Counsel including Counsel's firm may have relating to EAJA attorney fees in
9 connection with this action.

10 This award is without prejudice to the rights of Counsel and/or Counsel's firm
11 to seek Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the
12 savings clause provisions of the EAJA.

13 Respectfully submitted,

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15 Dated: December 29, 2021

/s/ Jonathan O. Peña
JONATHAN O. PEÑA
Attorney for Plaintiff

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17
18 Dated: December 29, 2021

PHILLIP A. TALBERT
United States Attorney
PETER K. THOMPSON
Acting Regional Chief Counsel, Region IX
Social Security Administration

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22 By: * Sarah E. Preston

23 Sarah E. Preston
24 Special Assistant U.S. Attorney
25 Attorneys for Defendant
26 (*Permission to use electronic signature
27 obtained via email on December 29, 2021).
28

ORDER

Based upon the parties' Stipulation for the Award and Payment of Equal Access to Justice Act Fees and Expenses (the "Stipulation"),

IT IS ORDERED that fees and expenses in the amount of NINE HUNDRED SIXTY-ONE DOLLARS and 83/100 (\$961.83) as authorized by the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), be awarded subject to the terms of the Stipulation.

IT IS SO ORDERED.

Dated: **December 29, 2021**

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE